

CITY ATTORNEY’S IMPARTIAL ANALYSIS OF BALLOT PROPOSITION “A”

On November 25, 1997, the San Diego City Council adopted Ordinance No. O-18443 (N.S.), which approved the execution and delivery of Certificates of Participation, making possible the expansion of San Diego Convention Center, which is owned by the San Diego Unified Port District but managed by the City. This Ordinance approved a Facility Lease, a Trust Agreement and Assignment Agreement between the City, the Port District and a Trustee. These documents provide one method of financing the expansion of the San Diego Convention Center.

The City Council approved this financing method to proceed with the Convention Center expansion, after a previously approved method of financing was delayed by the Rider v. City lawsuit, which challenges the earlier method of financing. The Council has now placed this alternative financing plan on the ballot for approval by the voters following the qualification of a referendary petition.

Under this proposed financing, the City will lease the Convention Center from the Port District, (through the Facility Lease). The Port District will assign its right to those lease payments to the Trustee (through the Assignment Agreement). The Trustee will then make available \$210 million in certificates of participation, to be purchased by investors. Each certificate will entitle the investor to a share of the revenues generated under the Facility Lease. Payments each year to the investors will be made from the annual lease payments made by the City. The financing documents do not identify the specific source of revenue to make the lease payments; however, the City may use tax revenues paid by visitors to the City who stay in hotels and motels within the City limits (also known as transient occupancy taxes) to make the annual lease payments. The financing documents do not address or govern the cost of the project.

The City Council must decide every year whether to make the lease payment or terminate

the lease; termination of the lease would free the City from the legal obligation to make lease payments in future years but could adversely affect the City's bond rating. Full payment of the certificates is expected to take thirty years, with an annual payment of approximately \$14 million to \$16 million. The Port District will assist in paying for the expansion by contributing to the City \$4.5 million per year for eighteen years. Finally, the City and the Port District will enter into a new Management Agreement for the Convention Center, covering the same period as the Facility Lease, whereby the City will continue to manage the Convention Center.

A "Yes" vote on this proposition will approve the use of certificates of participation to pay for the Convention Center Expansion. A "No" vote will disapprove the use of certificates of participation and repeal the Ordinance. The vote on this measure will have no legal effect on the pending Rider lawsuit or the previously approved method of financing. If the City wins the Rider lawsuit, it will have the option to use the previously approved lease revenue financing method instead of the certificates of participation.

The above statement is an impartial analysis of Ordinance No. O-18443 (N.S.). If you desire a copy of the Ordinance No. O-18443, please call the elections official's office at (619) 533-4025 and a copy will be mailed to you at no cost. Alternatively, the full text of the ordinance will be available at the City's Internet Web site, <http://www.sannet.gov>.